

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

July 21, 1982



L. JOYCE HAMPERS
COMMISSIONER

("Company") is a Connecticut partnership engaged in the business of designing telecommunications systems and developing fiber-optic and optic-sensor technologies. The partners are a Connecticut corporation and a Massachusetts corporation. You inquire whether the Company is a "research and development corporation" within the meaning of paragraphs (r) and (s) of Massachusetts General Laws Chapter 64H, Section 6, which provide exemptions from the sales tax for sales of certain items used directly and exclusively "in research and development by...a research and development corporation within the meaning of sections thirty-eight C or forty-two B of chapter sixty-three."

General Laws Chapter 63, Section 38C provides that

"[e]very corporation organized under or subject to chapter one hundred and fifty-six B which is engaged...in research and development of products capable of being manufactured in this commonwealth, shall for the purposes of this chapter be deemed to be...a domestic research and development corporation."

Section 42B of Chapter 63 provides that

"[e]very corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, which has a usual place of business in the commonwealth and is...engaged therein in

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research or development of products capable of being manufactured therein, shall, for the purposes of this chapter, be deemed to be...a foreign research and development corporation."

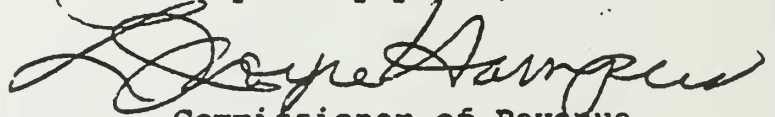
With exceptions not here relevant, "foreign corporation" is defined for purposes of the corporate excise as

"every corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under /specified chapters of the General Laws, / which has privileges, powers, rights or immunities not possessed by individuals or partnerships..." (G.L. c. 63, s. 30(2) (emphasis supplied).)

Partnerships are not subject to tax under Chapter 63 of the General Laws. In fact, partnerships as such are not subject to any Massachusetts tax on income; rather, a partner is subject to Massachusetts tax on his distributive share of income received or earned by the partnership (G.L. c. 62, s. 17).

Based on the foregoing, it is ruled that the Company is not a "research and development corporation" within the meaning of Chapter 63, Section 38C or 42B; therefore, the exemptions set forth in Chapter 64H, Section 6(r) and (s) for sales of certain items used in research and development do not apply to purchases made by the Company.

Very truly yours,


Commissioner of Revenue

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